

**TAB F**



MARKS & KLEIN, LLP

April 24, 2014

**VIA FIRST CLASS MAIL &  
EMAIL**

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**Re: Your File: 15154.0033 ;NJTA v. Jersey Boardwalk Pizza**

Dear Mr. Nussbaum:

The undersigned and the law firm of Marks & Klein, LLP represents Mr. Paul DiMatteo and Jersey Boardwalk Franchising Company ("Jersey Boardwalk"). This correspondence is in response to your letter of April 16, 2014 on behalf of your client, the New Jersey Turnpike Authority ("NJTA") in which you allege that Jersey Boardwalk's use of its logo constitutes trademark and service mark infringement, trademark dilution and unfair competition. We respectfully disagree.

We do not dispute that the New Jersey Turnpike Authority, the entity responsible for maintaining and repairing New Jersey's Garden State Parkway, owns the registration for the Garden State Parkway logo at Registration No. 2,452,349 in connection with highway management and maintenance services and travel information services (the "NJTA Mark"). We do, however, dispute that Jersey Boardwalk's use of its logo, which is distinct from the NJTA Mark, constitutes trademark or service mark infringement, trademark dilution or unfair competition and are prepared to defend and protect our client's rights.

As your letter accurately states, Jersey Boardwalk is in the pizza business. The company offers franchise opportunities to third party licensees for the right to open and operate pizza restaurants under the mark "Jersey Boardwalk Co." and the logo identified below, containing the words "Jersey Boardwalk Co. PIZZA, SUBS CHEESTEAKS PASTA." Jersey Boardwalk conducts its business over 1,300 miles away in the State of Florida.



***Likelihood of Confusion: Source of Pizza Restaurants = Source of Pothole Repairs***

Given the very distinct difference in the goods and services offered by our respective clients (yours being a governmental agency providing highway maintenance and travel related services exclusively in the state of New Jersey – ours being a franchisor of pizza restaurants providing the opportunity to provide delicious pizza and Italian food to patrons of its licensed restaurants), there is no plausible likelihood of confusion. Clearly the relevant consuming public, patrons of our clients' restaurants (which are currently only in the state of Florida) or prospective franchisees of the Jersey Boardwalk Co. ® franchise system, are not likely to be confused and assume there is an association between the New Jersey Turnpike Authority and Jersey Boardwalk Franchising Company or the pizza restaurants operated under the franchise system.

The United States Patent and Trademark Office apparently agrees, as it issued a registration on the Principal Register for the Boardwalk Pizza® logo (also owned by our clients) over three years ago at registration number: 4056183 (the "Boardwalk Pizza Mark"), in connection with restaurant services. This federally registered logo, which is displayed below for your reference, is essentially identical to the current Jersey Boardwalk logo, the only difference being the addition of the word "Jersey" and "Co." to the symbol, and has been continuously used in commerce for over three years - since as early as April 1, 2011. A copy of the registration certificate is enclosed.

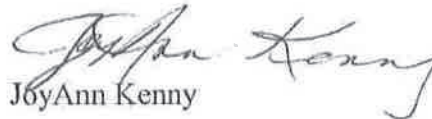


Furthermore, the NJTA Mark is entirely un-policed as third-party use of the mark, in its exact form as well as variations of the mark, is rampant throughout the United States. A simple Google® search reveals hundreds of examples of such uses in connection with various different types of goods and services ranging anywhere from T-shirts and bumper stickers, to dentist offices and belly dancing (a large number of which are New Jersey businesses). Notably, there are no reported instances of the NJTA taking any action against any third party for use of the Garden State Parkway sign, or the NJ Turnpike sign for that matter. We are curious as to why the NJTA has directed its focus on our clients, whose operations are currently confined to the state of Florida.

As the agency that promotes itself as "*Serving Drivers of the New Jersey Turnpike and Garden State Parkway*" and as being dedicated to the "*safe, efficient movement of people and goods over two of the busiest toll roads in America*", the New Jersey Turnpike Authority's pursuit of this matter is an unnecessary, fruitless and unwarranted waste of public resources.

Please direct any and all future communications with Mr. DiMatteo and/or Jersey Boardwalk Co. to the undersigned and Marks & Klein, LLP. If NJTA decides to take any litigious action, we demand that NJTA include a copy of this letter, in its entirety, and exhibits. In addition, we further demand that if NJTA takes any litigious steps that NJTA provide proper service or a copy of such correspondence.

Very truly yours,



JoyAnn Kenny

cc: Paul DiMatteo